

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:12 CR 007**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
HARLAND LAVERN SQUIRREL,)	
)	
Defendant.)	
_____)	

THIS MATTER has come before the undersigned pursuant to a motion filed by counsel for defendant entitled “Motion for *In Camera* Review of Personnel Record” (#13). In the motion, defendant requests that defendant’s counsel be allowed to examine and review the personnel record and file in the possession of the North Carolina State Bureau of Investigation of an employee of that governmental agency, that being N.C. State Bureau of Investigation Special Agent Christopher Smith. The government responded to the motion (#15) and advised that the government did not have any objection to a review by the court of the personnel file and record of N.C. Bureau of Investigation Special Agent Christopher Smith. A hearing took place upon this matter on May 23, 2012. Defendant and his counsel, Rich Cassady appeared and the government was represented by Assistant United States Attorney Don Gast. At the hearing, it appeared that the defendant had not subpoenaed the personnel file of N.C. State Bureau of Investigation Special Agent Christopher Smith from the

appropriate officer for the North Carolina State Bureau of Investigation. The undersigned heard arguments from Mr. Cassady and from Mr. Gast regarding defendant's motion. Ms. Cassady withdrew his request that he be allowed to examine the file of Agent Smith and Mr. Gast advised the government would consent to an examination of the file *in camera* by the undersigned and for the court to then deliver to Mr. Cassady copies of any documents that might be either exculpatory to the defendant or would provide evidence which questions the credibility of Special Agent Smith.

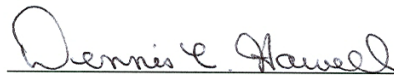
After hearing these arguments, the undersigned determined to enter the following **ORDER**:

1) That defendant's counsel is ordered to issue a subpoena to the appropriate officer of the North Carolina State Bureau of Investigation subpoenaing that person to produce for examination by the undersigned the personnel file of N.C. State Bureau of Investigation Special Agent Christopher J. Smith. Included within the file or additional to the file, are the documents of any acts of conduct or investigation of acts of misconduct by the North Carolina State Bureau of Investigation of their employee Special Agent Christopher J. Smith. The subpoena shall direct the appropriate official to produce the file for the court on **June 12, 2012 at 11:00 a.m.** in courtroom #1 of the United States District Court in Bryson City, North Carolina;

2) Counsel for defendant shall file a brief supporting authority showing any case law or statutory authority that would support defendant's request that the undersigned examine and make an *in camera* review of the personnel file of Special Agent Christopher J. Smith. This brief shall be filed by **June 1, 2012**. The government will be allowed up to and including **June 7, 2012** to respond to the brief;

3) At the hearing, which is to take place on **June 12, 2012**, the undersigned will hear any objections that might be filed by the North Carolina State Bureau of Investigation regarding the subpoena and the production of the documents that are ordered to be produced by the subpoena.

Signed: June 4, 2012

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Dennis L. Howell
United States Magistrate Judge

